IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 733 OF 2005

Dr. Arun Kumar Prasad .. Applicant.

V/s.

1. State of Gujrat through
   CBI- Special Crime Branch, Mumbai
2. The State of Maharashtra ..Respondents.

Shri Madhav Jamdar for the Applicant.
Shri Jacob Daneil with Ejaz Khan for the CBI.
Shri V.B.Konde-Deshmukh, APP for Respondent No.2 State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 10,2005.

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. Indeed the incident in question, viewed as a whole, is a serious offence. However, we are concerned with the case of accused No.19, who is a doctor by profession attached to Dudhia Government Hospital which is about 70 Kms. away from the scene of offence. Accepting the prosecution case at it is, insofar as this applicant (accused No.19) is concerned, it is seen that he was invited by the local police station of Limkheda to inspect the scene of

offence and also to prepare post mortem report in respect of the bodies recovered from the scene of offence.

3. The role of the applicant (accused No.19), therefore, is only from the stage when investigation commenced in particular on and from 5th March, 2002 and had no causal connection with the main incident which happened on the 3rd of March, 2002. Even if the prosecution case against the present applicant (accused No.19) was to be accepted as it is, the applicant can be charged only for the offence of causing disappearance of evidence (which are bailable offences) and of being party to the conspiracy only for that offence. For the said offence, even if maximum punishment was to be imposed, he will not have to undergo imprisonment exceeding 7 years.

4. Moreover, as the investigation is already complete and all the relevant materials are already in place including charge has been framed; and as there is no possibility of tampering with the documentary evidence; and as the applicant is permanent resident of Bihar, though working in government hospital in Dudhia in Gujarat, which is stated to be 70 kilometres

away from the scene of offence; and as the applicant is already in custody since April, 2004 coupled with the fact that the trial will take quite some time as there are more than 100 witnesses to be examined by the prosecution and that the wife of the applicant who is arraigned as Accused No.20 is mentally affected because of the pendency of this case and there are two children to be looked after by the applicant, taking over all view of the matter, the applicant deserves to be enlarged on bail on the following conditions :-

(a) Applicant is enlarged on bail in connection with C.R.No. I (S) 2004 registered with CBI SCB BR. Mumbai on executing personal bond in the sum of Rs. 50,000/- (Rs. Fifty thousand only) with one or two sureties in the like amount.

(b) The applicant shall not enter the jurisdiction of Limkheda Police Station during the pendency of trial, except when required for the purpose of any further investigation of this case.

(c) The Applicant shall extend full co-operation for early disposal of the trial, which will be condition for bail. If the trial court is of the

opinion that the Applicant is responsible for delay in trial that fact be recorded in the Rozanama, which will be ground for cancellation of bail.

(d) The Applicant shall not influence the prosecution witness or tamper with the prosecution evidence in any manner whatsoever.

5. Ordered accordingly.

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